REMARKS

This Request for Reconsideration Amendment is filed in response to a Non-Final Office Action of August 13, 2009 in which claims 129-182 were rejected.

Original claims 158-180 filed with RCE of July 14 2009 are amended to provide consecutive order numbers for the claims 129-182 and to correct referral numbers in dependent claims to the claims they are dependent from.

The applicant would like to point out that arguments presented in Remarks of the RCE with Amendments submitted to the USPTO on July 14 2009 and Remarks of the Amendments submitted to the USPTO on January 21 2009 are fully applied.

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Claim Rejections - 35 USC § 112

Examiner's Position:

Claims 136, 159 and 172 are rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. These claims recite "an index indicating how to enter …. Transmission event unabridged" which is not described in the specification.

Applicant's Response:

The applicant disagrees with the Examiner. The following excerpts from the specification providing the support of the subject matter of claims 136, 159 and 172 (it is reasonably assumed that a "transmission event" may be a "notification"), wherein underlined and bolded words/phrases provide the support:

Staring on page 5 line 30 through page 6 line 12:

"For example, **an index may indicate** the data structure that contains an observation record exhibiting a characteristic, **and/or the record's location within the data structure**. An

index may be created based on any of numerous observation record characteristics. For example, **an index may provide an indication of the location of a particular type of notification**, an originating IP address, a destination IP address, any other suitable data value, or a combination thereof.

By storing and/or indexing data in this manner (i.e., in relatively small data structures), **the system may provide for the storage of network event notification data as it is processed in its entirety.** That is, rather than storing summarized and/or normalized network activity data (which many conventional systems may do in order to mitigate the storage overhead and/or inaccessibility issues that arise with conventional databases), an **observation record may store a notification in the complete form in which it was originally reported**. As a result, data analysis may employ the actual notification, rather than a summary or normalized version of the notification, yielding improved data forensics.

In addition to storing notifications in their entirety,…."；

Staring on page 11 line 14 through page 11 line 14:

"It should be appreciated that, although there may be diagnostic benefits to loading network event notifications in their entirety to storage, the invention is obviously not limited in this regard. **Any suitable portion of a notification, up to and including an unabridged version, may be loaded to storage**."

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Claim Rejections - 35 USC § 103

Examiner's Position:

Claims 129-135, 137-140, 142-145, 148-154, 156-158, 160-171, 173-176 and 178-179 23-26, 27, 36-39, 82, 91-94 and 109-128 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Khanokar et al. (U.S. Patent No. 6560443) in view of Wiley et
al. (US 7382756).

Claims 141, 155 and 177, are rejected under 35 U.S.C. 103(a)
as being unpatentable over Khanokar et al. in view of Wiley et
al. as applied to claims 129, 148 and 166 and further in view of
Richards et al. (US 2005/0015461).

Claims 146, 147, 181 and 182 are rejected under 35 U.S.C.
103(a) as being unpatentable over Khanokar et al. as applied to
claims 129, 148 and 166 and further in view Microsoft Computer
Dictionary, 5th Edition.

Applicant's Response:

The applicant would like to emphasize that arguments
presented in Remarks of the RCE with Amendments submitted to the
USPTO on July 14, 2009 are fully applied in reference to a
subject matter contained in newly drafted claims as submitted on
July 14, 2009, contrary to what is alleged by the Examiner.

The Examiner stated in the Response to Argument Section of
the August 13 2009 Office Action that the arguments submitted in
the RCE on July 14, 2009 are directed to the cancelled claims. That
is not accurate.

The arguments presented in the RCE submitted to the USPTO
on July 14, 2009 are **even more applied to a newly drafted claims
129-182**. Since **the Examiner did not consider these arguments** in
the Office Action of August 13 2009, these arguments are
partially repeated here for the completeness of the full
response.

Furthermore, the Examiner's arguments in regard to the
prior art quoted by the Examiner are analyzed based on MPEP
guidelines which are stated in the MPEP Paragraph 2143 as
follows:

"To establish a *prima facie* case of obviousness three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

In reference to independent claim 129 (and other independent claims) of the present patent application, the Examiner stated that Wiley et al. disclose a second step of claim 129:

"creating one or more characterization records for at least one data structure of said one or more data structures, one or more transmission events of said plurality of the transmission events being collected to said at least one data structure of said one or more data structures, **wherein at least one of said one or more characterization records comprises one or more indicators of a location or locations of one or more data elements comprised in at least one of said one or more transmission events**, to allow accessing said at least one of the one or more characterization records to **determine said one or more indicators of the location or locations of said one or more data elements**." (e.g., see step 320 in Figure 3A and col. 5 lines 25-67 and col. 7 lines 1-51 of the present patent application)

The applicant is of opinion that Wiley et al. do not disclose the step of "creating …" (see underlined and bolded text) referenced above as recited in claim 129 which was argued and explained in detail in the remarks of the RCE submitted to the USPTO on July 14 2009.

Indeed, Wiley et al. disclosed root and child datasets 50 (54 and 56) shown in figure 2, such that root datasets having pointers 106, 108, 110 and 112 shown in figure 3 of Wiley et al. which may be updated when child and/or sibling databases are created, such that the root datasets can point out to the child or sibling datasets (e.g., see col. 5, lines 22-25, col. 5, lines 53-56, col. 6, lines 11-15, col. 6, lines 27-28 of Wiley et al.).

The applicant's understanding is that the Examiner alleged that the description provided by Wiley et al. may be interpreted, such that the root datasets of Wiley et al. with pointers may be equivalent to "**at least one** of said one or more characterization records comprises **one or more indicators of a location or locations** of one or more data elements" as recited in claim 129 of the present patent application, and child (or sibling) datasets of Wiley et al. may be equivalent to "**the location or locations**" where the "**one or more data elements**" are recorded as recited in claim 129 of the present patent application.

However, the above "equivalency" **is not applicable** to claim 129 of the present patent application wherein the term "**creating**" is used, because the "**at least one of said one or more characterization records**" recited in claim 129, according to embodiments of the present invention, should be created for transmission events (or notifications) collected into a data structure, such that created "**at least one of said one or more characterization record** comprises **one or more indicators of a**

location or locations) of one or more data elements comprised in
the received "one or more transmission events … collected to
said at least one data structure", as recited in claim 129 of
the present patent application. Then the disclosure of Wiley et
al. would not read onto claim 129, because the root dataset of
Wiley is created when child datasets do not exist yet (nothing
to point at), and pointing out to a sibling database (having
reverse root keyset 102 as shown in figure 3 of Wiley et al.)
would not matter, because the pointer(s) in the root dataset in
Wiley et al. should indicate the location of data element(s)
comprised in the transmission events (or notifications) for
which this root dataset is created (as recited in claim 129 of
the present invention), but this is not what Wiley et al.
disclose.

　　　In other words, since in Wiley et al. a new dataset 50 is
automatically created by the dataset generator 62 just for one
transmission event as stated in col. 5 lines 22-25 of Wiley et
al., then in order to read the disclosure of Wiley et al. onto
claim 129 of the present patent application, the created root
dataset of Wiley et al. should have a pointer to itself, which
apparently is not the case and is not disclosed by Wiley et al.

　　　Therefore, none of the references (Khanokar et al. or Wiley
et al.) quoted by the Examiner teach or disclose a second step
of claim 129 quoted herein, such that none of these references
disclose all limitations of claim 129, as required by the MPEP
Paragraph 2143 quoted herein, which makes claim 129 non-obvious
and not unpatentable over Khanokar et al. in view of Wiley et
al. under 35 U.S.C. 103(a), contrary to what is alleged by the
Examiner.

　　　Independent claims 149 and 166 have a similar scope as
claim 129 and therefore also not unpatentable over Khanokar et
al. in view of Wiley et al. under 35 U.S.C. 103(a).

The non-obviousness and patentability of dependent claims 130-148, 150-165 and 187-182 is provided by novelty and non-obviousness of the independent claims 129, 149 and 166 they are dependent from (directly or indirectly). More arguments in reference to unique limitations of dependent claims 130-148, 150-165 and 187-182 may be presented by the applicant if requested by the Office.

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CONCLUSION

The objections and rejections of the Non-Final Office Action of August 13, 2009 having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested and passage of all claims to issue is earnestly solicited.

Respectfully submitted,

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Date: October 27, 2009 _____
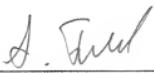
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